

Serial No. 09/929,106  
Docket No. N01289US  
Ref. No. NIS.041

**REMARKS**

Entry of this Amendment is proper because it narrows the issues on appeal and does not require further search by the Examiner.

Claims 1-12 and 14-21 remain pending in the application. Claims 6-10 have been allowed. Claims 1-5, 11, 12, and 14-21 have been amended.

The claim amendments are made only to explicitly recite features heretofore implicit, and are not made to distinguish the invention over the prior art or narrow the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1 and 21 were rejected under 35 U.S.C. §112, second paragraph, with the contention that it is unclear which "other" transmission device is intended. This rejection was made in the first Office Action and was traversed in the responding Amendment Under 37 C.F.R. §1.111. During the interview, Examiner Pwu stated that this rejection would be withdrawn.

Claims 1-5 and 11-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Baker, Jr., et al., U.S. Patent No. 4,949,373. This rejection is respectfully traversed.

In response to the arguments presented in the Amendment filed September 14, 2005, the December 14, 2005 Office Action points out that the claim language then existing, namely, "an allowable load state" and "an overload state", was broad enough to read on the Baker reference due to the fact that what is allowable or an overload is not defined in the claims. The above amendments define these conditions. During the interview it was agreed

Serial No. 09/929,106  
Docket No. N01289US  
Ref. No. NIS.041

that amendments clarifying the "allowable load state" and the "overload state" would overcome the rejection and make the claims allowable. The above amendments do this.

By way of example, claim 1 sets forth that the allowable load state is a state in which the transmission load of the transmission device is of an amount clearly within the data storage capacity of that device, and the overload state is a state in which the transmission load of the transmission device is of an amount that may exceed the data storage capacity of that device. Dependent claims 3-5 set forth different criteria for determining whether the transmission load is clearly within the data storage capacity or may exceed the data storage capacity. Independent claims 6 and 16 and dependent claims 17-19 have been similarly amended.

It is accordingly submitted that the application is in condition for allowance.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned attorney at the local telephone number listed below to discuss any other changes deemed necessary for allowance in a telephonic or personal interview.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR §1.136. The Commissioner is authorized to charge any deficiency in fees, including

Serial No. 09/929.106  
Docket No. N01289US  
Ref. No. NIS.041

extension of time fees, or to credit any overpayment in fees to Attorney's Deposit Account

No. 50-0481.

Respectfully Submitted,

Date: March 14, 2006


  
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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that I am filing this Amendment Under 37 C.F.R. §1.116 by facsimile with the United States Patent and Trademark Office to Examiner Jeffrey C. Pwu, Group Art Unit 2143 at fax number 571-273-8300 this 14th day of March 2006.

  
James N. Dresser